

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LYNN ANN HUST,

Plaintiff,

v.

THE STATE OF WYOMING; et al,

Defendants.

Case No. C08-5501RBL

ORDER REQUESTING LIMITED
RESPONSE TO MOTION FOR
RECONSIDERATION

THIS MATTER comes before the Court on Plaintiff's Motion for Reconsideration [Dkt. # 97] of the Court's Order [Dkt. #96] Granting Defendants' Motions to Dismiss without prejudice. The Court has reviewed and considered the Motion. Under Local Rule 7(e)(3), the Court Requests that the Defendants submit a Response to the Motion, limited to the issue below.

Plaintiff argues that under *Wallace v. Kato*, 549 U.S. 384 (2007), her §1983 claim for false arrest¹ in violation of the Fourth Amendment (and associated "civil conspiracy" claims arising from her arrests) has accrued and is viable, notwithstanding *Heck v. Humphries*, 512 U.S. 477 (1994). The State of Washington Defendants sought dismissal of this claim under *Heck* [See Dkt. #88 at p. 6] and the Clark

¹Plaintiff argues that this authority also supports as "against all defendants" her claims for abuse of process and malicious prosecution. [See Dkt. #97 at p.3, paragraph 4] The court does not agree, and will not on the authority of *Wallace* revisit the dismissal of those claims. Plaintiff's new *Wallace* argument applies, if at all, only to the false arrest and related claims, not to the abuse of process and malicious prosecution claims.

1 County defendants relied on that portion of the State's Motion in seeking dismissal of that claim against
2 them [See Dkt. #93 at p.3]. The Defendants' Motions did not cite or distinguish *Wallace v. Kato*.

3 Plaintiff's Response [Dkt. #86] to the Laramie Police Department's Motion to Dismiss [Dkt. #50]
4 cited *Heck* for an unrelated proposition, and did not cite *Wallace*. Plaintiff did not Respond to the
5 subsequent Dispositive Motions [Dkt. #s 88, 90, and 92], which were noted prior to the date of the
6 Court's Order. (The Clark County Defendants' Motion to Dismiss [Dkt. #93] was not noted until January
7 23, 2009)

8 The Plaintiff's §1983 false arrest (and associated "civil conspiracy") claims as against all
9 Defendants were dismissed on the authority of *Heck*.

10 The Court seeks a Response from the Defendants on the applicability of *Heck* to a false arrest
11 claims (and associated "civil conspiracy" claims), in light of the newly-cited authority, *Wallace v. Kato*.
12 The Defendants' Response may also include a brief argument as to other bases for dismissal of the false
13 arrest (and associated "civil conspiracy") claims.

14 IT IS SO ORDERED.

15 Dated this 14th day of January, 2009.

16
17 
18 RONALD B. LEIGHTON
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28